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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

12/14/2009

Frederick W. Gibb, III  
McGinn & Gibb, PLLC  
Suite 304  
2568-A Riva Road  
Annapolis, MD 21401

EXAMINER

OBEID, FAHD A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 12/14/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,803

12/05/2003

Vikas Agarwal

JP920030194US1

2259

TITLE OF INVENTION: RESOURCE USAGE METERING OF NETWORK SERVICES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	03/15/2010

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
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or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590

12/14/2009

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Suite 304  
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Annapolis, MD 21401

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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nonprovisional	NO	\$1510	\$300	\$0	\$1810	03/15/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
OBEID, FAHD A	3627	705-030000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/729,803	12/05/2003	Vikas Agarwal	JP920030194US1	2259

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EXAMINER

OBEID, FAHD A

ART UNIT

PAPER NUMBER

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DATE MAILED: 12/14/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 976 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 976 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/729,803	AGARWAL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	FAHD A. OBEID	3627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/11/2009.
2. ☒ The allowed claim(s) is/are 1,3-10 and 24-29.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|---|

/Fahd A Obeid/  
Examiner, Art Unit 3627

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627

## DETAILED ACTION

### *Status of the Application*

### *Examiner's Amendment*

1. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such amendment, it must be submitted no later than the payment of the issue fee.
2. Authorization for this Examiner's amendment was given in a telephone interview with Pamela Riley on 11/25/2009.
3. The application has been amended as follows:  
Regarding Claim 1: (Currently Amended) A method for metering use of network-accessible computer resources by multiple users of said computer resources during a same time period, said method comprising:  
recording, as process accounting information in a memory of a computer system, usage of said computer resources during said time period, said computer resources comprising servers distributed across an infrastructure of a service provider, wherein said usage comprises at least central processing unit (CPU) time, memory usage and input/output (I/O) operations;  
recording, in said memory, service request information for service requests made by said users to said service provider; ~~and~~  
correlating, by a processor of said computer system, the recorded process accounting

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information and the recorded service request information in order to determine resource usage information for each of said service requests for each of said users during said time period, said correlating comprising:

identifying overlapping usage of any of said computer resources, said overlapping usage comprising usage, during said time period, of a same computer resource to perform processes for at least two different service requests of at least two different users; and

allocating any overlapping usage by one of evenly splitting said overlapping usage between said at least two different service requests and splitting said overlapping usage in a weighted manner between said at least two different service requests based upon respective durations of said at least two different service requests; and charging said users for said service requests based on said allocating of said overlapping usage.

Regarding Claim 9: (Currently Amended) A computer system for metering use of network-accessible computer resources by multiple users of said computer resources during a same time period, said computer resources comprising computer software recorded on a computer-readable medium and said computer system comprising:

means for recording, as process accounting information, usage of said computer resources during said time period, said computer resources comprising servers distributed across an infrastructure of a service provider, wherein said usage comprises at least central processing unit (CPU) time, memory usage and input/output (I/O) operations;

means for recording service request information for service requests made by said users

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to said service provider;

means for correlating the recorded process accounting information and the recorded service request information in order to determine resource usage information for each of said service requests for each of said users during said time period, said correlating comprising:

means for identifying overlapping usage of any of said computer resources, said overlapping usage comprising usage, during said time period, of a same computer resource to perform processes for at least two different services requests of at least two different users; and

means for allocating any overlapping usage by one of evenly splitting said overlapping usage between said at least two different service requests and splitting said overlapping usage in a weighted manner between said at least two different service requests based upon respective durations of said at least two different service requests; and

means for charging said users for said service requests based on said allocating of said overlapping usage.

Regarding Claim 10: (Currently Amended) A computer program product for metering the use of network-accessible computer resources by multiple users of said computer resources during a same time period, said computer resources comprising computer software recorded on a computer-readable medium for performing the steps of:

recording, as process accounting information, usage of said computer resources during said time period, said computer resources comprising servers distributed across an infrastructure

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of a service provider, wherein said usage comprises at least central processing unit (CPU) time, memory usage and input/output (I/O) operations;

recording service request information for service requests made by said users to said service provider; ~~and~~

correlating the recorded process accounting information and the recorded service request information in order to determine resource usage information for each of said service requests for each of said users during said time period, said correlating comprising:

identifying overlapping usage of any of said computer resources, said overlapping usage comprising usage, during said time period, of a same computer resource to perform processes for at least two different service requests of at least two different users; and

allocating any overlapping usage by one of evenly splitting said overlapping usage between said at least two different service requests and splitting said overlapping usage in a weighted manner between said at least two different service requests based upon respective durations of said at least two different service requests; and  
charging said users for said service requests based on said allocating of said overlapping usage.

#### **Allowable Subject Matter**

4. Claims 1, 3-10, and 24-29 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter.

The prior art, Halliday et al. (US 2002/0083003), teaches a method and apparatus for metering of a client application usage and reporting of said usage to a site on a public network.



Establishing a user account with a billing site; communicating metering monitor usage information relating to usage of the client application to the user account at the billing site; and charging the user for the use of client applications or application features.

The prior art, Deliwala et al. (US 2004/0210496), teaches a method and system for tracking expenditures incurred by an entity involves determining the costs involved. Also, determining costs incurred by each group or department such as engineering group or accounting group. A provider of utility priced computing services prices its services based on processor usage time such as a CPU-second basis. The provider reads a business model of an entity and uses the business model to determine exactly how much computing time was used by each group and sub-group within an entity and allocates the billing information to the various group and sub-group.

The prior art, Peterson et al. (US 7,020,628), teaches a method and system for tracking computer system usage through a remote access security device. The method includes the steps of creating starting and ending time stamps for each authorized user accessing a respective one of the multiple host computer networks and creating a user log to generate bills and monitor host computer network usage.

Halliday, Deliwala, and Peterson lack identifying overlapping usage of any of said computer resources, said overlapping usage comprising usage, during said time period, of a same computer resource to perform processes for at least two different service requests of at least two different users; and allocating any overlapping usage by one of evenly splitting said overlapping usage between said at least two different service requests and splitting said overlapping usage in a weighted manner between said at least two different service requests based upon respective

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durations of said at least two different service requests; and charging said users for said service requests based on said allocating of said overlapping usage.

The limitations lacking in the prior art, in combination with the other limitations clearly claimed for patent, are novel and unobvious.

Foreign prior art and NPL search was conducted however no relevant prior art was found.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “comments on statement of reasons for allowance”.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/  
Examiner, Art Unit 3627  
November 25, 2009

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627